# BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

MARY L. LOGSDON	)	
Claimant	)	
VS.	)	
	)	Docket No. 228,786
DEXTER UNIFIED SCHOOL DISTRICT 471	)	
Respondent	)	
AND	)	
	)	
EMPLOYERS MUTUAL CASUALTY	)	
Insurance Carrier	)	

## ORDER

Respondent and its insurance carrier requested review of the preliminary hearing Order dated December 18, 1997, and the Order Nunc Pro Tunc dated January 8, 1998, both entered by Administrative Law Judge John D. Clark.

#### ISSUES

The Administrative Law Judge granted claimant's request for medical benefits. Respondent and its insurance carrier contend in their brief to the Appeals Board that claimant failed to provide timely notice of accident as required by K.S.A. 44-520. Although timely notice of accident was the only issue for which the parties requested review, the Appeals Board must also determine the appropriate date of accident before it can decide the notice issue.

## FINDINGS OF FACT

After reviewing the entire record, for preliminary hearing purposes the Appeals Board finds as follows:

(1) Claimant injured her back while working for the respondent between August 27 and September 29, 1997. Claimant's job as a school librarian required her to repetitively bend and lift books and other objects.

- (2) Claimant's symptoms began on August 27, 1997, while she was bending over to lift a stack of books from the floor. As claimant continued to work and perform her regular job duties after August 27, her symptoms progressively worsened.
- (3) On September 29, 1997, claimant notified her school principal of her back injury. On that date claimant also left work due to the back injury.
- (4) Claimant sustained repetitive microtraumas to her back through September 29, 1997. That conclusion is based upon the office records of claimant's treating physician, Lynda B. DeArmond, M.D.

## **CONCLUSIONS OF LAW**

Because the work activity which caused the microtraumas to claimant's back continued through September 29, 1997, that date is the most appropriate date of accident for the period of injury in question.

K.S.A. 44-520 requires an injured worker to provide the employer with notice of an accidental injury within ten days of its occurrence. Because notice was given on September 29, 1997, notice was timely.

The Administrative Law Judge's preliminary hearing Order and Order Nunc Pro Tunc should be affirmed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated December 18, 1997, and Order Nunc Pro Tunc dated January 8, 1998, both entered by Administrative Law Judge John D. Clark should be, and hereby are, affirmed.

#### IT IS SO ORDERED.

Dated this \_\_\_\_ day of March 1998.

### BOARD MEMBER

c: David H. Farris, Wichita, KSP. Kelly Donley, Wichita, KSJohn D. Clark, Administrative Law JudgePhilip S. Harness, Director